IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 9602 of 2007(R)

PETITIONERS:

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1. FASALUDEEN, S/O.ABDUL KAREEM,
   AGED 49 YEARS, PROPRIETOR, NAZAR TRADERS,
   PAIKADA ROAD, KOLLAM.

2. ABDUL SALAM, AGED 48 YEARS,
   S/O.HANEEFA, NAHAS MANZIL, KAIRALI NAGAR-78,
   KALLUMTHAZHAM P.O., KOLLAM.

BY ADV. SRI.A.SHAFEEK

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, KOLLAM.

2. THE TALUK SUPPLY OFFICE, KOLLAM.

3. THE SUB INSPECTOR OF POLICE,
   KOLLAM EAST POLICE STATION, KOLLAM.

BY GOVT.PLEADER SMT.ANU SIVARAMAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 9602 OF 2007 - R

Dated this the 22nd day of March, 2007

J U D G M E N T

The second petitioner is the owner of a Mahindra Champion 3 wheeler load carrier vehicle bearing Reg.No.KL.OZY 5189. The first petitioner rented the same for carrying bags of wheat which was intercepted and seized by the third respondent on the ground that the same is rationed article. A crime has been registered in respect of the same as Crime No.171/07. The same has already been produced before the Magistrate. The petitioners now seek release of the vehicle as well as the wheat.

2. I had heard learned counsel for the petitioners as also the learned Government Pleader who appears for the respondents. I feel that it would be a national waste if the vehicle and the wheat is allowed to rot in the sun and rain and it would only be to the benefit of all concerned when the same be released to the petitioners. At the same

time, the interest of the State also has to be protected. However, the wheat cannot be ordered to be released because, according to the respondents, the same are rationed articles. The first petitioner also should not be prejudiced since if ultimately he succeeds in the case, he would get the market value of the wheat.

3. In the above circumstances, I direct the respondents to release the vehicle to the second petitioner on his furnishing a bank guarantee for the value of the vehicle assessed by the concerned Motor Vehicle Inspector. The first respondent shall receive the value of the vehicle assessed and intimate the same to the second petitioner within one week from the date of receipt of a copy of this judgment. The vehicle shall be released to the second petitioner on his furnishing a bank guarantee for the value so assessed and the second petitioner produces the proof of ownership of the vehicle. The first respondent shall also complete the confiscation proceedings expeditiously.

The writ petition is disposed of with the following direction.

S. SIRI JAGAN,
Judge

Mbs/

K.THANKAPPAN, J

Crl.Appeal NO. OF 2001

J U D G M E N T

DATED:13-02-2007